IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

**INCOME TAX APPEAL NO.149 OF 2001**

The Commissioner of Income Tax city XIII Mumbai )..Appellants

Versus

M/s.Khanna & Co. )..Respondents

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Mr.P.S.Sahadevan for the appellants.

Ms.Beena Pillai i/by D.M.Harish & Co. for respondents.

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**Coram : F.I.Rebello & R.S.Mohite,JJ**

Date : 12.12.2007.

PC

1. Revenue has preferred this appeal on the question of law as formulated in paragraph-5 of the appeal memo. The Appeal arises from the order passed in ITA No.1037/N/Bom/92 dated 19th September 2000. The learned Tribunal addressed the issue as to whether there was any concealment on the part of the assessee. ITAT noted that the finding as recorded was that the ultimate purchaser did exist. Addressing itself to the issue of penalty, the Tribunal held that we have to look into the matter with the final finding which is a belief and not claimed to be the falsity of assessee’s claim. The

Tribunal held that addition stood finalised on the basis of the above plea of the ITAT. As the ultimate purchaser did exist it accordingly set aside the order imposing penalty.

2. These are clearly findings of fact. Nothing has been brought on record to show that the said findings are perverse. In the light of that there is no substantial question of law, Appeal dismissed accordingly.

**(R.S.Mohite,J)** **(F.I.Rebello,J)**